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 Attorneys for Defendant/Appellant/Cross-
 BAX GLOBAL INC.

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9 **Attorney for Plaintiffs/Appellees/Cross-Appellants**
10 THE NISSAN FIRE AND MARINE INSURANCE
COMPANY, LTD., AND HITACHI DATA
SYSTEMS CORP.

12 UNITED STATES DISTRICT COURT

**NORTHERN DISTRICT OF CALIFORNIA
(SAN FRANCISCO DIVISION)**

15 THE NISSAN FIRE AND MARINE) CASE NO.: . C 02-02516 JSW
INSURANCE COMPANY, LTD., AND)
HITACHI DATA SYSTEMS CORP.,)
16 Plaintiffs/Appellee,) **STIPULATION AND [PROPOSED]**
17 v.) **ORDER RE STAY OF EXECUTION**
18) **OF JUDGMENT AND APPROVAL OF**
19 BAX GLOBAL INC., AND CATHAY) **AMOUNT OF SUPERSEDEAS BOND**
PACIFIC AIRWAYS, LTD.,)
20 Defendants/Appellant.)
FRCP 62(d)

RECITATIONS

23 WHEREAS the Court enter judgment in this lawsuit on May 11, 2006 in favor of
24 plaintiffs THE NISSAN FIRE AND MARINE INSURANCE COMPANY, LTD., AND
25 HITACHI DATA SYSTEMS CORP (collectively “plaintiffs” or “HITACHI”) against Defendant
26 BAX GLOBAL INC. (“Defendant” or “BAX”) in the amount of \$156,184.17 (the “judgment”).

27 WHEREAS plaintiffs' bill of costs has been submitted in the amount of \$1,657.57;

WHEREAS the Court has denied plaintiffs' requests for attorneys fees in its Findings of

1 Fact and Conclusions of law entered May 11, 2006.

2 WHEREAS defendant BAX filed a timely Notice of Appeal on June 9, 2006;

3 WHEREAS plaintiffs filed a Notice of Cross-Appeal on June 15, 2006;

4 WHEREAS the parties have met and conferred to discuss the amount and form of the
5 supersedeas bond required in order to stay execution of the judgment pending appeal; and

6 WHEREAS the parties have agreed that a reasonable supersedeas bond amount is

7 \$197,000.00 (which is equal to more than one and a quarter (1.25) times the amount of the
8 judgment plus costs rounded to the nearest thousand) and that the bond attached hereto as

9 Exhibit A is adequate and proper.

10 **STIPULATION**

11 The parties hereto hereby stipulate, and the Court hereby orders as follows:

12 1. The amount and form of the supersedeas bond attached hereto as Exhibit A is
13 approved by the Court. FRCP 62(d); and

14 2. All proceedings to enforce this Court's Judgment in this lawsuit entered May 11,
15 2006 are hereby stayed during the pendency of the appeal in order to preserve the status quo.

17 Dated: June 19, 2006

LAW OFFICES OF GEORGE W. NOWELL

19 By: _____ /S/
20 PAUL B. ARENAS
21 Attorneys for Defendant
22 BAX GLOBAL INC.

1
2 Dated: June 19, 2006

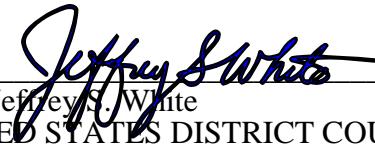
DAVID M. SALENTEINE, ESQ.

3
4 By: _____ /S/
5 DAVID M. SALENTEINE
6 Attorneys for Plaintiffs
7 THE NISSAN FIRE AND MARINE INSURANCE
8 COMPANY, LTD., AND HITACHI DATA
9 SYSTEMS CORP.

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12 **ORDER**

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14 THE FOREGOING STIPULATION
15 IS APPROVED AND IS SO ORDERED.

16
17 DATED: June 21, 2006

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21 Hon. Jeffrey S. White
22 UNITED STATES DISTRICT COURT JUDGE

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LAW OFFICES OF GEORGE W. NOWELL
120 Montgomery Street, Suite 1990
San Francisco, CA 94104
Phone: (415) 362-1333 Fax: (415) 362-1344

1 SURETY CORPORATION FOR PRINCIPALS:
2 NATIONAL UNION FIRE INSURANCE COMPANY
3 OF PITTSBURGH, PA
4 70 Pine Street
5 New York, NY 10270

4 PRINCIPALS:
5 BAX GLOBAL INC.
6 C/O GEORGE W. NOWELL, SBN: 83868
7 LAW OFFICES OF GEORGE W. NOWELL
120 Montgomery Street, Suite 1990
San Francisco, CA 94104
Telephone: (415) 362-1333
Facsimile: (415) 362-1344

BOND NUMBER: 29-15-88
ANNUAL PREMIUM: \$1,615.00

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN FRANCISCO DIVISION)**

4 THE NISSAN FIRE AND MARINE) CASE NO.: C 02-02516 JSW
5 INSURANCE COMPANY, LTD., AND)
6 HITACHI DATA SYSTEMS CORP.,)
7 Plaintiffs/Appellee,)
8 v.)
9 BAX GLOBAL INC., AND CATHAY)
10 PACIFIC AIRWAYS, LTD.,)
11 Defendants/Appellant.)
12)
13)
14)
15)
16)
17)
18)
19)
20)

1 WHEREAS Defendant BAX GLOBAL INC. (“defendant” or “BAX”) has appealed from
2 a judgment entered against it in favor of plaintiffs THE NISSAN FIRE AND MARINE
3 INSURANCE COMPANY, LTD., AND HITACHI DATA SYSTEMS CORP. (collectively
4 “plaintiffs” or “HITACHI”) in the amount of \$156,184.17; and

25 WHEREAS defendant BAX desires to provide a bond for costs on appeal and to stay the
26 execution as provided for under Federal Rule of Civil Procedure 62 (d), Federal Rule of
27 Appellate Procedure 7 and 8 and under Northern District of California Local Rule 62.1-1.

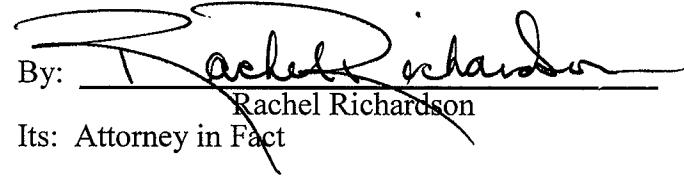
NOW THEREFORE, in consideration of the premises and of such appeal, the

1 undersigned NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, a
2 corporation organized and existing under and by virtue of the laws of the State of New York and
3 authorized to transact a surety business in the State of California (ND Cal. LR 65.1-1(b)(2)),
4 does hereby undertake and obligate itself, its successors and assigns, to plaintiffs THE NISSAN
5 FIRE AND MARINE INSURANCE COMPANY, LTD., AND HITACHI DATA SYSTEMS
6 CORP. in the sum of ONE HUNDRED NINETY-SEVEN THOUSAND DOLLARS
7 (\$197,000.00), being at least one and a quarter (1.25) times the amount named in said
8 judgment of \$156,184.17 and costs of \$1,657.57 rounded to the nearest thousand.

9 IN WITNESS WHEREOF, the corporate seal and name of said Surety Company is hereto
10 affixed and attested by Rachel Richardson, Esq., who declares under penalty of perjury under the
11 laws of the State of California and of the United States that she is a duly authorized Attorney in
12 Fact acting under an unrevoked power of attorney, a copy of which is attached hereto.

13 Executed at 8144 Walnut Hill Lane, Suite 1600, Dallas, Texas 75231 on this 16th day of
14 June, 2006.

15 **NATIONAL UNION FIRE INSURANCE
16 COMPANY OF PITTSBURGH, PA**

17 By: 

18 Rachel Richardson
19 Its: Attorney in Fact

LAW OFFICES OF GEORGE W. NOWELL
120 Montgomery Street, Suite 1990
San Francisco, CA 94104
Phone: (415) 362-1333 Fax: (415) 362-1344

American Home Assurance Company
 National Union Fire Insurance Company of Pittsburgh, Pa.
 Principal Bond Office: 175 Water Street, New York, NY 10038

POWER OF ATTORNEY

No. 09-E-1038026

KNOW ALL MEN BY THESE PRESENTS:

That American Home Assurance Company, a New York corporation, and National Union Fire Insurance Company of Pittsburgh, Pa., a Pennsylvania corporation, does each hereby appoint

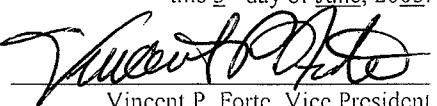
--- Rachel Richardson of Dallas, Texas ---

its true and lawful Attorney(s)-in-Fact, with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, Pa. have each executed these presents

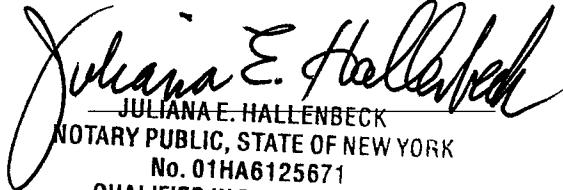


this 3rd day of June, 2005.


 Vincent P. Forte, Vice President

STATE OF NEW YORK }
 COUNTY OF NEW YORK }ss.

On this 3rd day of June, 2005 before me came the above named officer of American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, Pa., to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seals of said corporations thereto by authority of his office.


 JULIANNE E. HALLENBECK
 NOTARY PUBLIC, STATE OF NEW YORK
 No. 01HA6125671
 QUALIFIED IN BRONX COUNTY
 MY COMMISSION EXPIRES APRIL 18, 2009

CERTIFICATE

Excerpts of Resolutions adopted by the Boards of Directors of American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, Pa. on May 18, 1976:

"RESOLVED, that the Chairman of the Board, the President, or any Vice President be, and hereby is, authorized to appoint Attorneys-in-Fact to represent and act for and on behalf of the Company to execute bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, and to attach thereto the corporate seal of the Company, in the transaction of its surety business;

"RESOLVED, that the signatures and attestations of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed with respect to any bond, undertaking, recognizance or other contract of indemnity or writing obligatory in the nature thereof;

"RESOLVED, that any such Attorney-in-Fact delivering a secretarial certification that the foregoing resolutions still be in effect may insert in such certification the date thereof, said date to be not later than the date of delivery thereof by such Attorney-in-Fact."

I, Elizabeth M. Tuck, Secretary of American Home Assurance Company and of National Union Fire Insurance Company of Pittsburgh, Pa. do hereby certify that the foregoing excerpts of Resolutions adopted by the Boards of Directors of these corporations, and the Powers of Attorney issued pursuant thereto, are true and correct, and that both the Resolutions and the Powers of Attorney are in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of each corporation



this 16th day of June, 2006


 Elizabeth M. Tuck, Secretary